

February 25, 2003

PUBLIC UTILITIES COMMISSION
Interim Electric Energy
Conservation Programs

ORDER ESTABLISHING
INTERIM CONSERVATION
PROGRAM – COMMERCIAL
AND INDUSTRIAL PROGRAM

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By this Order, we approve implementation of a Commercial and Industrial (C/I) Program, as an interim conservation program pursuant to P.L. 2001, ch. 624, § 7. The Commission intends to establish an energy efficiency program for commercial and industrial business customers throughout Maine, based on a combination of energy efficiency information and training, business practice assistance, and direct financial incentive. Through this Order, we approve funding a C/I Program, at a level of up to \$1.1 million.

II. BACKGROUND

P.L. 2001, ch. 624 (the Conservation Act),¹ enacted during the second session of the 120th Legislature, establishes terms that govern an electric energy conservation program in Maine. Section 4 of Chapter 624 directs the Commission to develop and implement electric energy conservation programs that are consistent with the goals and objectives of an overall energy conservation program strategy that the Commission must establish. Various other statutory directives require the Commission to promulgate rules and hold public hearings.

Recognizing that the process of implementing electric energy conservation programs will necessarily take many months, the Legislature authorized the Commission to implement interim programs. Section 7 of Chapter 624 states:

Interim programs. In order to avoid a significant delay in the implementation of conservation programs pursuant to the Maine Revised Statutes, Title 35-A, Section 3211-A, the Public Utilities Commission may use funds from the conservation program fund established pursuant to Title 35-A, section 3211-A, subsection 5 to implement on a short-term basis conservation programs that the commission finds to be cost effective. The commission is not required to

¹The Conservation Act may be found on the Commission's web page: www.state.me.us/mpuc (and access the Electric Conservation Activities site).

satisfy the requirements of Title 35-A, section 3211-A before implementing such programs. Any programs implemented under this section must terminate no later than December 31, 2003. Funds in the conservation program fund not used for short-term programs under this section must be used in accordance with Title 35-A, section 3211-A.

On June 13, 2002, we issued our Order Establishing Interim Conservation Programs, wherein we implemented specific interim programs that were described in the Order. We also ordered the Staff to further investigate other programs that showed potential for meeting our criteria for interim programs. One of the programs assigned to further study was a large C/I program.

In the June 13th Order, we noted that

Suggestions for large C/I interim programs generally fell into two categories. First, Envinta offered a systematic senior management awareness program that encompasses building assessment benchmarking and training. This program could be effective for medium to large businesses. At this time, we are not certain whether businesses' senior management would be receptive to such a program. In addition, benefits would likely be long-term, rather than immediate. However, the program merits further investigation. Competitive Energy Services and S&S Technologies suggested a customized analysis of individual large customers in which an ESCO screens for cost effective improvements and receives payment based on savings achieved. Customized process analysis, using a performance contract of some sort, is a common means of delivering energy efficiency programs to the largest business customers, and bears further investigation.

June 13th Order at 27.

The Staff has completed its investigation of a possible interim, business practice and customized process analysis program directed at the large C/I customers. The Staff suggests that an educational program including energy efficiency information and training, business practice assistance, coupled with a direct customized financial incentive should be implemented for all C/I customers, but targeted specifically towards the medium and large C/I customer groups.

III. INTERIM COMMERCIAL AND INDUSTRIAL PROGRAM

We will establish a Commercial and Industrial Program throughout Maine, based on offering a combination of energy efficiency information and training, business practice assistance, and direct financial incentives, awarded through a competitive bid process, to commercial and industrial businesses. The program will be designed to encourage them to adopt energy efficient business practices, to include consideration of energy costs and energy efficiency in their business decisions, and to purchase and install energy efficient products. The program will be delivered by contractors in several components.

All commercial and industrial businesses would be eligible to participate in this program, although the program is targeted primarily at medium to large businesses. Opening participation to all businesses will minimize the chance that a business will fall in a gap between two programs². Those businesses that are eligible and participate in the Small Business Program and/or the DECD Energy Conservation Loan Program would not be eligible to receive financial incentives for those same energy efficiency products under the Commercial and Industrial Program. Public Authorities (government and schools) will not be eligible for this program but will have dedicated programs designed for their specific needs.

The goal of this program is to improve the efficiency of energy use in commercial and industrial business applications. The specific program objectives are to:

- Reduce electricity consumption by business customers.
- Change the standard “good business practice” to include consideration of energy efficiency.
- Increase the number of Maine suppliers and contractors selling energy efficient products and services.

The program will use a three-component approach which includes (1) providing information and training on energy efficient equipment and operating methods to key business executives, managers, and operations personnel, (2) providing advice and assistance to business to incorporate consideration of energy and energy efficiency into operations, maintenance, procurement, and investment decisions and (3) providing financial incentives to businesses to partially fund the installation of energy efficiency measures.

The first component of the program is providing information and training. We have not, as yet, made final decisions about precisely what training and information to provide. Examples of programs which have worked well outside of Maine include:

- The Certified Energy Manager (CEM) program. The CEM training program is a 5-day program, which was developed by the Association of Energy Engineers (AEE), and is targeted at facility managers for businesses and energy service providers. The program covers the technical, economic, and regulatory aspects of effective energy management.
- The Fundamentals of Compressed Air Systems seminar (CAS 1). CAS 1 is part of the Compressed Air Challenge (CAC) program, sponsored by many entities including US DOE. It is targeted at facility engineers and O&M staff, and is designed to teach them how to achieve cost savings through more efficient production and use of compressed air.
- Seminars targeted at medium and large business CEO's, CFO's and Facilities Managers. A one-day seminar could focus on energy efficiency as

² This program is primarily directed at C&I customers which have medium to large, and in some cases rather specialized, electric usage. Some small C&I businesses (with 50 or fewer employees) may find that they have efficiency opportunities which can be better addressed under this program than under the Small Business or DECD programs.

good business practice. Its intent would be to increase the awareness of key business decision makers regarding the importance of energy efficiency as an economic benefit to business. Seminars could also serve to strengthen the dialogue between business and governmental leaders.

The second component of the program is modification of business practices. This will include the development of a benchmarking and coaching service for energy efficient best business practices. It will include a pilot program to provide initial diagnostic and feedback, action planning, and follow-up coaching and advice. The Staff shall contract with an energy efficiency business consultant to provide coaching services, run workshops, write case studies and assist in the development materials.

The third component of the program is providing financial incentives. This will be accomplished by establishing a "Commercial and Industrial Business Energy Efficiency Grant." These grants will offer financial incentives to eligible businesses on a competitive basis (RFP). Grants could be applied directly to the installed cost of a qualifying energy efficient measure, or could be used to buy down the interest rate of a loan or lease. Incentive Awards will be based on an established set of criteria, including overall cost effectiveness and kWh saved per program dollar invested. Staff is directed to contract with an energy efficiency technical consultant through an RFP process to help write the Grant RFP, review proposals and select awardees.

1. The Program is Cost Effective

A preliminary cost effectiveness analysis of this program, completed by the Staff, yields a benefit to cost ratio (BCR) of 3. This analysis was completed using Maine-specific budget and energy savings estimates. Since the set of measures to be offered, along with their estimated cost, energy savings, incentive level, and other characteristics will be determined during final program design and review of proposed projects through the RFP process, data from similar cost-effective programs being offered elsewhere was used as an estimate for the measure characteristics of the proposed Maine program.

2. Statutory Criteria Satisfied

Even though the Act relieves the Commission of the obligation to apply the statutory criteria to interim programs, we decided in our June 13 Order to apply those criteria to the greatest extent possible. June 13th Order at 8.

a. To the greatest extent practicable, apportion remaining available funds among customers groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation program (35-A M.R.S.A. §3211-B Subsection 2.B(3)). This program would be made available to all commercial and industrial customers but is designed for the medium and large customer group. This program will complement two other program offerings, targeted at small businesses. Opening the program to all commercial and industrial customers will assure all commercial and industrial customers have a reasonable

opportunity to participate and no group or sector of the commercial and industrial customers will fall between the gaps in program design.

b. The Commission shall select service providers through a competitive bidding process (Subsection 3.A). The Commission directs the Staff to issue a competitive solicitation for implementation contractors for those portions of the program portfolio where it would be applicable.

c. To the extent practical, the Commission shall encourage the development of resources, infrastructure, and skills within the State, by giving preference to in-state service providers. (Subsection 3 B). The program design utilizes a three-component approach and where in-state service providers can be used efficiently and effectively, such preference will be considered.

3. Measurement and Evaluation

There are a variety of commonly used means of evaluating an incentive-based program. Evaluators can count the number of businesses that participate in the program and the equipment they buy, and use the energy savings per measure from existing evaluations from other jurisdictions to estimate the program's energy savings. We direct Commission Staff to determine the best method of evaluation and to rely on measurements of installations in Maine to the greatest extent possible.

4. Coordination

We direct the Staff to coordinate detailed program design and delivery with the activities of DECD's Energy Conservation Loan Fund and CMP's Nickel Program, in order to maximize customer benefits and avoid duplication of resources. We will determine whether and how to phase out CMP's Nickel Program as part of our planning process in Docket 2002-162.

5. Funding

The estimated cost of this program through 2003 is \$1.1 million, based on the estimated costs of the various components of the programs. We authorize the Staff to spend up to this amount from the Conservation Program Fund.

6. Status as an Interim Program

We expect that the first two components of this program will be substantially completed by December 31, 2003. The third component, providing partial funding of energy efficiency measures may still be underway. It is possible that some of the projects for which we would provide funding assistance may be under contract but not physically completed at year-end. As noted above, the Conservation act requires that interim programs "must terminate no later than December 31, 2003."

We do not wish to delay getting this program underway, and so we will adopt it now as an interim program. We intend to complete the requisite

Conservation Plan and rulemaking governing permanent programs in the second quarter of 2003. At that time, we expect to revisit these C&I programs and, where necessary, either adopt them as permanent programs or terminate them as of December 31, 2003.

IV. FUTURE ACTIONS

The Staff is directed to implement the Commercial and Industrial Business Program as described in this Order. We delegate to the Director, Energy Efficiency Programs, or his designee on the Energy Conservation Team, the authority to conduct bidding processes, to enter into contracts, memoranda of understanding, or similar agreements, as is necessary to implement the program consistent with this Order. Staff is also authorized to spend up to 10% more than the amount described in this Order to implement the program. Spending decisions beyond the 10% contingency must be made by the Commission.

Dated at Augusta, Maine, this 25th day of February 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.